S.N.1. From the Central Board of Revenue, Cir No 8 of 193
Endt. C.No. 241(1)-I.T/30 dated 28th April 1930

Draft endt.is submitted.

K.M.Vasudevan
17.5.30

S.N.2. Issued No,4310-- dated the 27th May 1930.

Price S.N.3. From the Central Board of Revenue, No. R.Dis. 241(ii)
. IT/30 dated 19-5-30.

Draft endt. is submitted.

K.M.Vasudevan
9.6.30

S.N.4. Issued No. 4808, dated 14-6 30.

I S.N.5. From the Central Board of Revenue D Dis No. 562-I.T/30
dated 16-7-30.

II S.N.6. From " " D.O.C.No. 584-I-T-/30
dated 22-7-30.

III S.N.7. From " " R.Dis No. 558-I-T/30
dated 18-7-30.

IV S.N.8. From " " Cirl No.19 of 1930/R.Dis
No. 573-I.T/30 dated 23-7-30.

V S.N.9. From " " D.O.R.Dis No.594-I.T/30
dated 29-7-30.

VI S.N.10 From " " Cirl No.1 of 1930/R.Dis No
69-Stamps/30 dated 30 -7-30.

VII S.N.11. From " " D.O.R.Dis No.521.I.T/30
dated 30-7-30.

Draft endt submitted.

K.M.Vasudevan
23-8-30

S.N.12. ssued No.6740 dated 28-8-30.

Puc I

S.N.13. From the Central Board of Revenue, Cir No.24 of 1930
R.Dis No.640-I.T/30

dated 12-9-30.

Puc II

S.N.14. From " " " Cir No.25 of 1930
R.Dis No. 641-I.T/30

Puc III

dated 12-9-30.

S.N.15. From " " " Cir No.23 of 1930
R.Dis No.274-I.T./30

dated 12-9-30.

Draft endt submitted.

K.R.Varadaraman
3.10.30.

6.X.30

S.N.16. Issued No.7814 dated 13-10-30.

Puc I S.N.17 From the Central Board of Revenue, Cir No.26 of 1930
R.Dis.No.647-I.T./30,

dated 12th September'30.

Puc II S.N.~~17.~~ 18 " " Cir.No.27 of 1930
R.Dis.No.639-I.T./30,

dated 19th September'30.

Draft Endt submitted.

K.R.Damodaran
20-10-30.

20.X.30

23.X.30

S.N.19. issued No.8185, dated the 27th Oct'30.

	S.N.19.	From the Central Board of Revenue, No.D.Dis.No.648-I.T/30, dated the 24th Sept'30.
II	S.N.20.	" " " " Cir.No.32 of 1930 R.Dis.No.637-I.T./30. dated the 7th Oct'30.
III	S.N.21.	" " " "Cir.No.30 of1930, R.Dis.No.699-I.T./30. dated the 1st Oct'30.
IV	S.N.22	" " " " Cir.No. 29 of 1930 R.Dis.No.635-I.T./30 dated the 1st Oct'30.
V	S.N.23	" " " " Cir.No. 33 of 1930 R.Dis.No.638-I.T./30 dated the 7th Oct'30.
VI	S.N.24.	" " " " Cir.No.31 of 1930.Endt.R.Dis. No.729(i)-I.T./30., dated the 6th Oct'30.
VII	S.N.25.	" " " " 52/C.No.409-I.T./29., dated the 24thOct'30.

Draft submitted.

K. Damodaran
30-10-30.

30-10-30

3.XI.30

S.N.26. Issued No.8468., dated the 7thNovember'30.

PS/UNC 2-D. From the Central Board of Revenue, Circular No.37 of 1930/R.Dis.No.930-I.T./29., dated the ~~1st. Dec'30~~ 21st. Nov. 30.

PS.UNC 28. From the Central Board of Revenue, No.59-R.Dis.No.409-(i)-I.T./29., dated the 11th Dec'30.

Draft submitted.

K. Damodaran
17.12.30

18/12

23.12.30

S.N.29. Issued No.9908 dated 2-1-31.

Pre

S.N.30. From the Govt of India, Cir.No.2 of 1931/R.Dis 21-I.T 31, dated 28-1-31.

Draft endt submitted.

K.M. Vasudevan
6.2.31

9.2.31

S.N.31. Issued No.1082 dated 13-2-31.

Part I

S.N.32. From the Central Board of Revenue, Cir.No.4 of 1931 R.Dis.No.81-I.T./31 dated 10-3-31.

Part II

S.N.33. From " " Cir.No.~~3~~ of 1931 R.Dis.No.791-I.T./30 dated 7-3-31.

Draft endt submitted.

K.M. Vasudevan
20.3.31

24.3.31

S.N.34. Issued No.2234 dated 27-3-31.

S.N.35. From the Central Board of Revenue, C.No.204-I.T/31, dated 23-3-31.

S.N.36. From " " Cir.No.5 of 1931 C.No.941-I.T/27, dated 27-3-31.

Draft endt submitted.

Asst Secretary.

7.4.31

S.N.37. Issued No.2586, dated the 10th April 1931.

P.W.C. S.N.38 Letter No.438/30, dated the 20th April 1931. from the Commissioner of Income-tax, Madras.

Draft endorsement submitted for approval.

6.5.31

S.N. 39 Issued No.3350, dated 8-5-31

D.O.C.No. 241-I.T./30

CENTRAL BOARD OF REVENUE.
Camp Amritsar, the 28th April, 1930.

My dear Strong,

REFUNDS- INDIAN INCOME-TAX ACT, XI-22 - SECTION 48- OFFICIAL TRUSTEE.

4944
8/5/30

Your letter D.O. No. 599-C.T., dated 12.4.30.

16/5

Will you please inform the Official Trustee accordingly and send us a copy of your letter to him.

2. Please distinguish carefully between the two classes of cases, viz.,

(1) those in which the Official Trustee collects dividends &c. and passes them on to a beneficiary or divides them between beneficiaries. Here the beneficiaries must apply for refunds and, if non-residents, must be dealt with as such.

(2) those in which the Official Trustee pays a fixed sum out of income in his hands to beneficiaries free of income-tax. Here the Official Trustee must apply for refunds and the question of non-residence does not arise.

Yours sincerely,

Sd/- A.Tottenham.
28.4.30.

To

F.F.Strong, Esq., I.C.S.,
Commissioner of Income-tax, Bengal,
Imperial Secretariat Buildings,
CALCUTTA.

No
Circular 8 of 1930
Endorsement C.No. 241(1)-I.T./30

Copy forwarded to all Commissioners of Income-tax, for information.

By order, etc.,

for SECRETARY, CENTRAL BOARD OF REVENUE.
3.5.30

N.
5.30

[R.O.106(a).]

All communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

OFFICE OF THE RESIDENT IN MYSORE,

Bangalore, 27/5/1930

No. 4310 Enclos./

A copy of the marginally* noted ~~letter~~ circular with enclosure, is forwarded to the Collector and Assistant Commissioner of Income-tax for information

*No. No.8 of 1930,
Endt. C.No.241(1)-I.T/30 dated the 28th April 1930, from the
Central Board of Revenue.

for Secretary to the Resident.

1212—16-3-1929—5,000—RPB.

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
26 MAY 1930
Regd. No. 5602
File No. 38/15

R.Dis.No.241(ii) IT/30.

CENTRAL BOARD OF REVENUE.

SIMLA, the 19th May 1930.

The undermentioned papers are forwarded to All Commissioners of Income-tax except Bengal in continuation of endorsement R.Dis. No. 241(i) I.T/30, dated the 28th April 1930.

By order etc.,

for Secretary, Central Board of Revenue.

List of papers forwarded.

(1) D. O. from F. W. Strong, Esquire, I.C.S. to A. R. L. Tottenham, Esquire, C.I.E., I.C.S., No. 16367-C.T., dated the 21st March 1930.

(2) D.O. from A. R. L. Tottenham, Esquire, C.I.E., I.C.S., to F. W. Strong, Esquire, I.C.S., C.No.241-I.T/30, dated the 29th March 1930.

(3) D. O. from F. W. Strong, Esquire, I.C.S., to A. R. L. Tottenham, Esquire, C.I.E., I.C.S., No.599-C.T. dated the 12th April 1930.

D.P.S.
19/5.

Copy of a Demi-official letter No. 16367 C.T., dated the 21st March, 1930, from F. W. Strong, Esquire, I.C.S., to A. R. L. Tottenham, Esquire, C.I.E., I.C.S., Member, Central Board of Revenue, New Delhi.

Refunds - Section 48 - Non-Resident beneficiaries - Claim of - By Official Trustee -.

I enclose for your perusal copy of a letter addressed to me by Kinney, the Official Trustee of Bengal. You will see that in the last para he suggests my making a reference to you and I am accordingly doing so, though I have not much doubt in regard to the points raised. My view is this :-

(1) As Section 41 does not contemplate the claiming of refunds by the Official Trustee, the only person who can claim a refund under Section 48 is the beneficiary himself, and if he is a non-resident he must submit his claim to the Income-tax Officer, Non-Residents' Refund Circle, Bombay.

(2) There is no doubt that the income which the beneficiaries have received has borne tax at source, so ordinarily the recipients of the income would be entitled to claim refund under Section 48, being the real owners of the securities from which the income is paid. Refunds could be given to them on production of certificates under Section 18(9) from the Official Trustee. In such cases we do not press for certificates from the Bank, as presumably the interest is collected and the tax paid by the Official Trustee to whom the Bank grants certificates.

(3) It does not seem to concern us as Income-tax authorities whether the granting of refunds under Section 48 will increase the beneficiaries' allowances to some extent. We are merely concerned to administer the Act.

(4) In this particular case Mr. Moll, not being a British subject and being non-resident, cannot claim a refund at all. This means that nobody can claim a refund under the Act so far

far his income from securities is concerned.

(5) Mrs. Moll being a non-resident British subject, will have to apply to the Income-tax Officer, Non-residents' Refund Circle, Bombay.

Do you agree in the correctness of this view?

Copy of a Demi-official letter C.No.241-I.T.30, dated the 29th March 1930, from A. R. L. Tottenham, Esquire, C.I.E., I.C.S., Member, Central Board of Revenue, to F. W. Strong, Esquire, I.C.S., Commissioner of Income-tax, Bengal, Calcutta.

Refunds - Indian Income-tax Act, XI-22-Section 48 - Official Trustee -.

Your D.O.No.1367-C.T. dated 21.3.30.

This is more complicated than I realized. If the Official Trustee is simply collecting dividends and interest on securities and dividing it amongst certain people then clearly it is the recipients who should apply for refund.

2. But if the Trustee collects the dividends etc. and pays a fixed sum to the beneficiaries the position is different. The beneficiary gets his £ 50 a month no more or less however much income-tax may wax or wane. He has not suffered income-tax at all on what he receives before he receives it. He will suffer income-tax after he receives it and if the Trustee wants him to get £.50 "free of income-tax" he must pay him such an amount as will leave him £ 50 after he has suffered income-tax at the appropriate rate.

3. That being so I think the Trustee ought to be able to claim refunds on income from interest etc. out of which he has to make fixed payments. Otherwise no one can. But it's very confusing. What do you think?.

Copy of a Demi-official letter No. 599 C.T., dated the 12th April 1930, from F. W. Strong, Esquire, I.C.S., Commissioner of Income-tax, Bengal, to A. R. L. Tottenham, Esquire, C.I.E., I.C.S., Member, Central Board of Revenue, Simla.

Refunds - Indian Income-tax Act, XI-22 - Section 48 - Official Trustee.

Your D.O.C.No.241-I.T/30, dated the 29th March, 1930.

I had not looked at the question from quite that angle, but on reading your letter I am inclined to agree with your view. At all events I can think of no better plan and I don't see any great danger to Government revenue if the Official Trustee is allowed to apply for refund not on behalf of any particular beneficiary but on behalf of the Trust.

2. I take it that the question of the status of the non-resident does not arise, which means that we may lose an a trifle in this particular case owing to the fact that the Official Trustee will be granted a refund whereas Mr. Moll could not have got one.

D.P.S.
19/5.

[R.O. 106 (a).]

All communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

OFFICE OF THE RESIDENT IN MYSORE,

Bangalore, 14th June 1930

No. 4808 Enclos. /

Pure
S.N.3

A copy of the marginally* noted circular letter, with enclosure, is forwarded to the Collector and Asst. Commr. of Income-tax, C & M Station, Bangalore, for information, in continuation of the Residency office Endt. No. 4310 dated the 27th May 1930.

*No. R.Dis No. 241(ii) IT/30 dated the 19th May 1930, from the Central Board of Revenue.

S.N.2

(K)

offg. Secretary to the Resident.

1212—16-3-1929—5,000—RPB.

19/6 KOW 9-6-30

D.O.

F.No.302-I.T/30.

CENTRAL BOARD OF REVENUE.

SIMLA, the 16th July 1930.

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
24 JULY 1930
Regd. No. 7511
File No.

SECRET.

From - The Central Board of Revenue,

To - The Commissioner of Income-tax, Bombay.

Your telegram No. 155 dated July 15th. Electoral Rolls for Council of State. You are precluded by the orders of the Government of India from furnishing any information about Income-tax assessees for the preparation of electoral rolls beyond the bare fact that they are assessed and their addresses. If any assessee himself asks for a certificate as to the amount of income-tax that he pays you may give him such a certificate.

Copy forwarded by post.

Copy also forwarded to the Commissioner of Income-tax, Bombay (this cancels Mr. Cockell's D.O. D.No.No.384-I.T/30, dated the 7th April 1930).

Copy also forwarded to all other Commissioners of Income-tax.

17.7.30

for Secretary, Central Board of Revenue.

D.O.C. No.584-I.T./30

Simla, the 22nd July, 1930.

My dear Sheehy,

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
29 JULY 1930
Regd. No. 7689
File No. 220/29

HINDU UNDIVIDED FAMILY - CONVERSION INTO A FIRM - INDIAN INCOME-TAX ACT. (XI-22) - S. 25(A) OR 26(2) - APPLICABILITY OF.

Your D.O.No.9147/Ap.9 30-31, 11.7.30

I personally have no doubt that the intention of the Government when asking the Legislature to enact Section 25A was simply to provide for a class of cases in regard to which the law, as it previously stood, was silent. It was not intended to apply to cases that were already provided for. I do not personally see how you can apply Section 25A where you are confronted not with a divided Hindu family but with a firm. I consider that where a Hindu Undivided Family that is conducting a business effect partition and the members after partition form themselves into a firm, the section applicable is Section 26 and not Section 25A. I note that the conference of Commissioners of Income-tax held in 1929, arrived at the contrary conclusion, but there is nothing on record to indicate on what grounds they did so.

Yours sincerely,

Sd/- A. Tottenham,
22.7.30.

To

J.F. Sheehy, Esquire., I.C.S.,
Commissioner of Income-tax, Burma.

Circular No.18 of 1930
R.Dis.No.584.I.T./30

Copy forwarded to all Commissioners of Income-tax, for information.

By order, etc.,,

25.7.30.

for Secretary, Central Board of Revenue.

R.N.R.
23/7/30.

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
29 JULY 1930
Regd. No. 7692
File No. 220/29

R. Dis. No. 558-I.T./30.

CENTRAL BOARD OF REVENUE.

Simla, the 18th July 1930.

Limitation—Appeals—Applications, etc.—Indian Income-tax Act, XI-22—Period of—Calculation.

My dear Senneck,

Your D. O. No. 403/1930, dated 10th July 1930.

I am afraid there has been some confusion. I am obliged to you for raising the point.

2. *Under Section 22 (2)* the return has to be made "within such period not being less than 30 days". The important word is "within". The Section does not provide that 30 days must elapse *before* the return is made. Therefore, if a notice is served on May 1st, the return must be made at latest on May 31st. *In Sections 30(2) and 32(1)* the expression is "within 30 days" and *in Section 66 (2)* "within 60 days". In these cases Section 67-A applies. The day on which the order was made and the time taken to obtain a copy are to be excluded, but the application or appeal must be filed not later than the last day of the period of 30 or 60 days so computed. Cases under *Section 66 (3)* are for the High Court to deal with. *Under Section 21* the return must be filed on or before the 30th April.

3. Board's circulars No. 7 13/30 / R. Dis. 235-I.T./30, dated 31st May 1930 and No. 7 13/92 29. / R. Dis. 911(*i*)-I.T./29, dated 11th November 1929 are cancelled.

Yours sincerely,

(Sd.) A. TOTTENHAM.

F. H. Senneck, Esq., I.C.S.,
Commissioner of Income-tax, Madras.

Circular No. 17 of 1930.
R. Dis. No. 558-I.T./30.

Copy forwarded to all other Commissioners of Income-tax.

By order, etc.,

25.7.30.

for *Secretary, Central Board of Revenue.*

M77CBR—1,160—23-7-30—GIPS

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
- 4 AUG 1930
Regd. No. 7892
File. No. 220/29

8

CIRCULAR No. 19 OF 1930.
R. DIS. No. 573-I.T./30.

CENTRAL BOARD OF REVENUE.

Simla, the 23rd July 1930.

CIRCULAR.

Trust—(1) Income from property or securities, etc., held under—(a) assessment of —(b) Refunds—Indian Income-Tax Act (XI-22)—Sections 40-41-48.

(2) Income from business conducted by trustees—Assessment of.

Where any "property" (in the widest sense, but excluding a business) is held under Trust, the owner of that property, for the purposes of the Income-Tax Act, is the beneficiary and the income is the income of the beneficiary.

2. (A) *In cases not falling under Sections 40 or 41,* the Trustee is merely to be regarded as an Agent. Receipt (actual or notional) of the income by him, or accrual of the income to him, is equivalent to receipt by or accrual to the beneficiary. Whether the income be distributed or allowed to accumulate, the beneficiary is to be assessed in respect of it. There is no provision for taxing the Trustee in respect of it. The beneficiary may, of course, apply for any refund that may be due. The Trustee cannot do so.

3. (B) *In cases falling under Sections 40 or 41,* the position is the same except that the Act here provides for recovery of the tax from the Trustee. (*a*) *Where the Trustee holds the entire property in the widest sense of the beneficiary,* the assessment should be made on the Trustee, the tax will be recovered from him and he may apply for refunds. The assessment will be made as though the income from the trust property were the total income of the Trustee. The assessment will, of course, be quite distinct from that on any other income in respect of which the same person may be Trustee and from that on the Trustee's own individual income.

4. (b) *If the Trustee does not hold the entire property of the beneficiary,* the assessment on the total income of the beneficiary will be made in the name of the beneficiary and the tax in respect of so much of the income as is received by the Trustee will be recovered from the Trustee, who may also apply for any refund due in respect of such part of the income, which refund will be calculated with reference to the total income of the beneficiary.

5. The instructions in paragraphs 3 and 4 are equally applicable alike (*a*) where the Trustee simply receives dividends, interest on securities or other income on behalf of and pays such income to the beneficiary, and (*b*) where he receives dividends, interest, or other income on behalf of the beneficiary and pays a *fixed sum* out of the income to the beneficiary. If the balance of such income accumulates for the benefit of the beneficiary, it is to be regarded as his income of the year in which it accrues or arises to or is received by the assessee.

6. (C) *Where a business is conducted by a Trustee or Trustees* on behalf of beneficiaries, the assessment is to be made on the Trustee or Trustees conducting such business, whether Section 40 or 41 is applicable or not. If there are *Trustees,* they should be treated as an association of individuals (see judgment of the High Court, Lahore, in Hotz Trustees *V.* Commissioner of Income-tax, Punjab). The tax will be assessed on and recovered from the Trustee. In the hands of the beneficiary or beneficiaries, the income of a business thus conducted by Trustees will not be taxed again. [Section 14 (2) (*c*)]. It will, therefore, be treated exactly as though it were a share of the profits of an unregistered firm. Its inclusion in his total income may raise the rate of tax leviable on the remaining income of a beneficiary or render that income liable to super-tax. The Trust income in the hands of the

beneficiary should not *itself* be subjected to super-tax a second time, if it has borne super-tax in the hands of the Trustees, though legally it is liable to be so subjected.

7. If such a business is conducted by a single Trustee, the same principles will be applied.

8. All previous circulars or instructions of the Central Board of Revenue on the subject of the assessment of Trust income or the grant of refunds in respect of such income are superseded by this Circular.

Secretary, Central Board of Revenue.
30.7.30.

To

All Commissioners of Income-tax.

M80CBR—1,160—29-7-30—GIPS

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
11 AUG 1930
Regd. No. 8111
File. No. 280/29

9

D.O. R.Dis.No.594-I.T./30. CENTRAL BOARD OF REVENUE.

SIMLA, the 29th July 1930.

My dear Muir,

Indian Income-tax Act - XI-22 - Section 48(4) & (5) - Refunds - Nonresidents - Government servants retiring.

Your D.O. T.11430-I.T.dated 26.7.30.

You ask in the first place what is the material date with reference to which it is to be decided whether a person is a resident or not for the purpose of granting a refund. It appears to me obvious that unless the applicant is a resident, both when he applies for the refund and when the refund is made, he must be treared as a non-resident. If a person who applies for a refund is a non-resident when he so applies surely the position is clear enough. If, after he has made his application but before he gets the refund, he ceases to be a resident, I think it is clear then too that he must be treated as a non-resident in calculating the rate at which a refund is due.

2. Then you ask when the following cease to be residents:-

A who retires on 1st March and at once leaves India. - I should say when he leaves the place where he last resided in India.

B who retires on 1st March, but takes one year's leave preparatory to retirement. - I should say, when he leaves his last residence in India, permanent or temporary, in order to leave India. That is to say, so long as he stays in India, even moving about, it may be, staying with friends or at Hotels, I should regard that stay as a continuation of his previous residence.

C who retires on May 1st and at once leaves India.

The answer is the same as in the case of A.

Yours sincerely,

Sd/- A. Tottenham,

29 . 7 .30.

C.B.F. Muir, Esq., I.C.S.,

Commissioner of Income-tax, U.P.

Dated the 1st August 1930.

Circular No.22 of 1930.
R.Dis.No.594- I.T./30.

Copy forwarded to other Commissioners of Income-tax.

By order, etc.,

4. 8 . 30.

for Secretary, Central Board of Revenue.

.....oOo.....

R.N.R.
1/8/30.

OFFICE OF THE RESIDENT IN MYSORE,
BANGALORE.
11 AUG 1930
Regd. No. 8/1243
File No. 220/29

1D

Circular No.1 of 1930.
R.Dis.No.69-Stamps/30.

CENTRAL BOARD OF REVENUE.

SIMLA, the 30th July 1930.

CIRCULAR.

Indian Court Fees Act - Income-tax and Salt Departments - Applications presented to officers of - Liability to duty.
Board's Circular No. 4 F.6/1-Stamps/25, dated. the 15th April 1925.

Attention is invited to the Board's Circular quoted above *(copy enclosed) and in particular to the reference in that Circular, under the heading "Court Fees Act, 1870," to Article 1(a) of Schedule II, to that Act. In the instructions relating to Article 1(a) "paragraph 4" is a mistake for "paragraph 5 ".

*to C.S.R. Madras and Bombay and Commr. of S.R. Burma.

2. The Board's attention has recently been drawn to the lack of uniformity in the matter of demanding court-fee stamps on applications presented to Income-tax and Salt officers, and this mistake is no doubt responsible for any confusion that has arisen. The effect of correcting the mistake will be that Income-tax and Salt officers who are neither District Collectors nor subordinate to District Collectors should only demand court-fee stamps on "applications" if they are applications for copies or translations of orders. No other application presented to such officers is liable to tax under Article 1(a) of Schedule II.

3.....

3. On the other hand, Income-tax or Salt officers who are also District Collectors or subordinate to District Collectors should, for the purpose of court-fees, treat all applications made to them in respect of income-tax ~~or~~ or salt matters as though they were made in respect of land revenue.

S D Mah

Secretary, Central Board of Revenue.
6.8.30.

To

All Commissioners of Income-tax.
The Commissioner, Northern India Salt Revenue.
The Collectors of Salt Revenue, Madras and Bombay.
The Commissioner of Salt Revenue, Burma.

D.D.C.
2/8/30.

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
11 AUG. 1930
Regd. No. 8146
File No. 220/29

D. O. R. Dis. No. 521-I.T./30

CENTRAL BOARD OF REVENUE.

Simla, the 30th July 1930.

Indian Income-tax Act—1922—(XI-22)—Section 64—Income-tax Officers—Jurisdiction of—Change of place of business, or alteration of Income-tax Officer's charge during pendency of assessment—Completion of assessment.

MY DEAR GRAHAM,

Your demi-officials Nos. 3458/6A/5/C. T., dated the 26th June 1930 and 3521/6A/5, dated the 30th June 1930.

1. If an Income-tax Officer commences proceedings for the assessment of a person subject to his jurisdiction he can complete them irrespective of the fact that the person during the pendency of the assessment shifts his residence or place of business to a locality outside the Income-tax Officer's jurisdiction.

2. If, however, an Income-tax Officer commences proceedings and while they are pending his jurisdiction is modified so that the assessee would have been subject when proceedings were started had the change of jurisdiction then been effective to the jurisdiction of another Income-tax Officer the proceedings must be transferred to the latter Income-tax Officer, but he can take them up at the point at which the former Income-tax Officer left them and complete them.

3. In other words jurisdiction at all stages is determined with reference to the residence and the principal place of business of the assessee ~~where~~ proceedings were begun.

4. Whenever proceedings have been started and can be completed in accordance with what has been said above the fact that one or more financial year may elapse during the pendency of the proceedings does not make it necessary to have recourse to Section 34.

5. If an assessment is completely set aside on appeal or by the Commissioner of Income-tax or High Court on the ground that the proceedings were bad *abinitio* owing to lack of jurisdiction there can be no question of picking up the thread. It may be necessary to have recourse to Section 34 or action even under that Section may be barred according to circumstances. But if any order is passed on appeal which necessitates further enquiry and the recomputation of the taxable income, but does not strike at the very root of the proceedings there is no time limit for the completion of the revised assessment.

6. It follows that undesirable complications may be created by unnecessary recourse to the provisions of Section 32 (3) (*b*). Under Section 31 (2) and 31 (3) (*a*) an Assistant Commissioner has ample powers to deal with any defect in an assessment that does not render the proceedings entirely void from the beginning. It is only where the proceedings are absolutely void from the beginning that an assessment should be set aside under either Section 31 or Section 33.

Yours sincerely,

(Sd.) A. TOTTENHAM.

H. Graham, Esq., I.C.S.,
Commissioner of Income-tax, Bengal.

CIRCULAR NO. 21 OF 1930.
R. DIS. NO. 521-I.T./30.

Copy forwarded to other Commissioners of Income-tax.

By order, etc.,

6.8.30

for *Secretary, Central Board of Revenue.*

M88CBR—1,160—5-8-30—GIPS

No: 6740 Enc 7

A-28-8-30.

1.2

* From the Central Board of Revenue,

I D.Dis No. 562 I.T/30 dated 16-7-30.

II D.O.C.No. 584-I.T/30 dated 22-7-30.

III R.Dis No. 558-I.T./30 dated 18-7-30.

IV Cirl No.19of 1930/R.Dis No.573-I.T/30 dated 23-7-30.

V D.O.R.Dis No.594-I.T/30 dated 29-7-30

VI Cirl No.1 of 1930/R.Dis No.69-Stamps/30 dated 30-7-30.

VII D.O.R.Dis No. 521-I.T/30 dated 30-7-30.

S.N.11 (M)

* A copy of the marginally noted papers is forwarded to the Asst Commr of Income-tax, C & M Station, Bangalore for information.

AS 25/8

for Secretary to the R

KPN 23.8.30

D/ACC 26/8/30

13

(Conference of Commissioners of Income-tax—1930—September—Madras—Agenda —Item 17.)

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
Regd. 9852

Circular No. 24 of 1930.
R. Dis. No. 640-I.T./30.

CENTRAL BOARD OF REVENUE.

Simla, the 12th September 1930.

CIRCULAR.

Indian Income-tax Act (XI/22)—Section 64 (4)—Branch Firms—Issue of notice under Section 22 (2).

An Income-tax Officer acting under Section 64 (4) should not serve on a branch of a business a notice under Section 22 (2) calling for a return of income, nor should he serve on the branch a notice under Section 22 (4), until he has information that a notice under Section 22 (2) has been served on the head office by the Income-tax Officer at the principal place of business, and has received a Memorandum in Form I. T. 50.

2. He should not serve on the branch a notice under Section 23 (2), until he further receives information that a return under Section 22 (2) has been received by the Income-tax Officer of the principal place of business, and that the latter considers that it is incorrect or incomplete, and that action should be taken at the branch place of business under Section 23 (2).

3. If the assessee does not comply with notices under Section 22 (4) or 23 (2) issued by the Income-tax Officer at the branch place of business, the assessment must be made under Section 23 (4).

25. 9. 30.

Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

M121CBR—1,160—24-9-30—GIPS

(Conference of Commissioners of Income-tax - 1930 - September - Madras - Agenda - Item 18).

Circular No. 25 of 1930.
R.Dis.No.641-I.T/30.

CENTRAL BOARD OF REVENUE.

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
29 SEPT.
9553

Simla, the 12th September 1930.

CIRCULAR.

Indian Income-tax Act (XI-22) - Section 8 - 'Receivable' - Interpretation of.

The question is in what year the interest on tax-free securities is to be taken into account in computing total income. The answer is that such interest, like the interest on securities that are not tax free, should be included in the total income of the year in which it is paid.

S P Shah

Secretary, Central Board of Revenue

To

All Commissioners of Income-tax.

LMV/19.9.30.

15

Circular No. 23 of 1930.

R. Dis. No. 274-I.T./30.

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
29 SEPT. 1930
Regd. No. 10012
File No. ...

CENTRAL BOARD OF REVENUE.

Simla, the 12th September 1930.

C I R C U L A R.

Indian Income-tax Act, (XI-22) - Section 9 (1) (iv) - Allowances in assessing income from property - "Charge".

The proper interpretation of section 9 (1) (iv), Indian Income-tax Act is open to doubt. The intention was no doubt to allow the deduction of any "charge" secured on the property, and not merely of the interest on such a charge, in the rare cases in which such interest would be payable. The drafting appears to be defective. Effect should, therefore, be given to the obvious intention and the deduction of such charges should be allowed.

23. 9. 30.
Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

No 7814 Enc 3
dt 13.10.30

*From the Central Board of Revenue,

Enc I S.N. 13
Cir No. 24 of 1930
R.Dis No. 640-I.T./30, dated
the 12th Sept.1930

Enc II S.N. 14
Cir No. 25 of 1930
R.Dis.No.641-I.T/30 dated
the 12 th Sept.1930

Enc III S.N. 15
Cir No.23 of 1930
R.Dis No.274-I.T/30 dated
the 12th Sept.1930.

(with 3 spare copies
of each)

*A copy of the marginally noted papers is forwarded to the Asst Commissioner of Income-tax, C & M Station, Bangalore for information.

for Secretary to the Resdt

KRN
3.10.30

Secd 2 Cys
are sent
18/10/30

IT

(Conference of Commissioners of Income-tax - 1930 - September - Madras - Agenda - Item 24).

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
3 OCT 1930
Regd. No. 10114
File No.

Circular No. 26 of 1930.

R. Dis. No. 647-I.T./30.

(Duplicate Copies (17))

CENTRAL BOARD OF REVENUE.

Simla, the 12th September 1930.

C I R C U L A R.

ASSESSMENT - BUSINESS COMMENCING ON 1st JULY 1928 - ACCOUNTS CLOSED ON 30-6-1929 - PROCEDURE FOR ASSESSMENT IN 1929-30 AND 1930-31.

Where, for example, a man starts a business on July 1st, 1928, and elects the year ending June 30th as his year of account, the Income-tax Officer should make no assessment until the year 1930-31, and should then make an assessment on the income of the year ending 30th June, 1929. Strictly speaking, the case does not appear to be provided for in the Act. It must, therefore, be dealt with on equitable and commonsense lines as above. The question of amplifying the section will be considered when a suitable opportunity arises.

S. P. Shah

27. 9. 30.

Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

(Conference of Commissioners of Income-tax - 1930 - September - Madras - Agenda - Item 24).

Circular No. 26 of 1930.

R. Dis. No. 647-I.T./30.

CENTRAL BOARD OF REVENUE.

Simla, the 12th September 1930

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S. P. SHAH,

Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

(Conference of Commissioners of Income-tax - 1930 - September - Madras - Agenda - Item 24).

Circular No. 26 of 1930.

R. Dis. No. 647-I.T./30.

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Simla, the 12th September 1930.

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S. P. SHAH,

Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

(Conference of Commissioners of Income-tax - 1930 - September - Madras - Agenda - Item 24).

Circular No. 26 of 1930.

R. Dis. No. 647-I.T./30.

CENTRAL BOARD OF REVENUE.

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S. P. SHAH,

Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

(Conference of Commissioners of Income-tax - 1930 - September - Madras - Agenda - Item 24).

Circular No. 26 of 1930.

R. Dis. No. 647-I.T./30.

CENTRAL BOARD OF REVENUE.

Simla, the 12th September 1930.

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S. P. SHAH,

Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

(Conference of Commissioners of Income-tax - 1930 - September - Madras - Agenda - Item 24).

Circular No. 26 of 1930.

R. Dis. No. 647-I.T./30.

CENTRAL BOARD OF REVENUE.

Simla, the 12th September 1930.

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S. P. SHAH,

Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

(Conference of Commissioners of Income-tax - 1930 - September - Madras - Agenda - Item 16).

Circular No. 27 of 1930.

R. Dis. No. 639-I.T./30.

(Duplicate copies below)

CENTRAL BOARD OF REVENUE.

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
4 SEP 1930
Regd. No. 10184
File No.

Simla, the 19th September 1930.

C I R C U L A R.

CO-OPERATIVE SOCIETIES - LOSS IN BUSINESS - SET OFF AGAINST INCOME FROM INTEREST ON SECURITIES. ADMISSIBILITY OF - INCOME-TAX MANUAL PAGE 107 (a).

Where a Co-operative Society incurs a loss under any head of income that has been exempted from tax by notification under section 60 (1) of the Indian Income-tax Act (XI of 1922), such loss may be set off under section 24 against any income that is not so exempted.

S.P. Shah

30.9.30.

Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

(Conference of Commissioners of Income-tax - 1930 - September - Madras - Agenda - Item 16).

Circular No. 27 of 1930.

R. Dis. No. 639-I.T./30.

CENTRAL BOARD OF REVENUE.

Simla, the 19th September 1930.

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S. P. SHAH,

Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

(Conference of Commissioners of Income-tax - 1930 - September - Madras - Agenda - Item 16).

Circular No. 27 of 1930.

R. Dis. No. 639-I.T./30.

CENTRAL BOARD OF REVENUE.

Simla, the 19th September 1930.

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S. P. SHAH,

Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

(Conference of Commissioners of Income-tax - 1930 - September - Madras - Agenda - Item 16).

Circular No. 27 of 1930.

R. Dis. No. 639-I.T./30.

CENTRAL BOARD OF REVENUE.

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S. P. SHAH,

Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

(Conference of Commissioners of Income-tax - 1930 - September - Madras - Agenda - Item 16).

Circular No. 27 of 1930.

R. Dis. No. 639-I.T./30.

CENTRAL BOARD OF REVENUE.

Simla, the 19th September 1930.

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S. P. SHAH,
Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

(Conference of Commissioners of Income-tax - 1930 - September - Madras - Agenda - Item 16).

Circular No. 27 of 1930.

R. Dis. No. 639-I.T./30.

CENTRAL BOARD OF REVENUE.

Simla, the 19th September 1930.

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S. P. SHAH,

Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

No.8185 Enc 2
dt 27.10.30.

19.

From the Central Board of Revenue,

Cir No.26 of 1930 P.U.C.I S.N.17
---------- ,dated 12-9-30.
R.Dis.No.647-I.T./30

" " "

Cir No. 27 of 1930 P.U.C.II S.N.18
---------- , dated 19-9-30.
R.Dis.No.639-I.T./30

(with 3 spare copies each)

A copy of the marginally noted papers are forwarded to the Asst. Commissioner of Income-tax, C & M Station, Bangalore, for information.

23/X

for Secretary to the RESD

20-10-30

Encl
as
25/10

Extract from D.O.D.Dis.No.129-Stamps/26, dated the 9th August 1926, from A.R. Loftus Tottenham, Esquire, Member, Central Board of Revenue, Simla, to J.C. Mackenzie, Esquire, I.C.S., Commissioner of Income-tax, Burma.

Subject:- Instrument of partnership - Unstamped - Produced before Income-tax Officer - Indian Income-tax Act, XI-22- Section 54- Amendment of - Your letter No.12,293, ~~dated 26.7.26~~ 11-78, dated 26.7.26.

The Government of India consider that it would be a bona fide use of the Commissioner's discretion conferred by the last proviso of S 54(2) of the Indian Income-tax Act, (XI-22), to refuse sanction to prosecute an Income-tax Officer on the ground that he had impounded an unstamped document because (1) the officer impounding a document and sending it to the Collector is fulfilling a statutory obligation and (2) it is doubful whether sending the document to the Collector amounts to "disclosure"; it is not like producing it in open Court. Income-tax Officers should therefore, impound documents under this protection until a convenient opportunity occurs for amending the first proviso to Sec.54(2).

X X X X X

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
29 SEPT. 1930
Regd. No. 10011
File No
38/10 D

D.Dis.No.648-I.T/30.

CENTRAL BOARD OF REVENUE.

SIMLA, the ~~25th~~ 24th September 1930.

Copy forwarded to all Commissioners of Income-tax except Burma, for information and guidance.

By order, etc.,

for Secretary, Central Board of Revenue.

R.N.R.22/9/30.

20

CIRCULAR No. 32 OF 1930.
R. DIS. No. 637-I. T./30.

CENTRAL BOARD OF REVENUE.

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
20 OCT 1930
Regd. No. 10710
File No.

Simla, the 7th October 1930.

CIRCULAR.

Indian Income-tax Act (XI-22)—Section 10 (2) (ix)—Capital expenditure—Tea gardens—Abandoned areas—Replanting of. Conference of Commissioners of Income-tax, September 1930—Agenda—Item No. 13.

After discussing this matter with the Indian Tea Association, Calcutta, the Board has decided to leave the question whether expenditure incurred on replanting abandoned area in tea gardens should be treated as capital or revenue expenditure to be settled by agreement between the department and the assessee in each case with reference to circumstances. It appears that the amount of revenue at stake is unimportant, and therefore the Board considers that ordinarily the classification of this expenditure as capital or revenue expenditure in the assessee's own accounts should be accepted by the department. Should the question assume unusual financial importance in any case, the Income-tax Officer concerned should take the orders of the Commissioner and the latter should, if necessary, consult the Board.

S. P. Shah
15. X. 30.
Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

M134CBR—1,160—14-10-30—GIPS

6

CIRCULAR NO. 32 OF 1930.
R. DIS. NO. 637-I. T./30.

CENTRAL BOARD OF REVENUE.

Simla, the 7th October 1930.

CIRCULAR.

Indian Income-tax Act (XI-22)—Section 10 (2) (ix)—Capital expenditure—Tea gardens—Abandoned areas—Replanting of. Conference of Commissioners of Income-tax, September 1930—Agenda—Item No. 13.

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S. P. SHAH,

Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

M134CBR—1,160—14-10-30—GIPS

CIRCULAR No. 32 OF 1930.
R. DIS. No. 637-I. T./30.

CENTRAL BOARD OF REVENUE.

Simla, the 7th October 1930.

CIRCULAR.

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S. P. SHAH,

Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

M134CBR—1,160—14-10-30—GIPS

Circular No. 30 of 1930.
R. Dis. No. 699-I. T./30.

CENTRAL BOARD OF REVENUE.

OFFICE OF THE RESIDENT IN MYSORE
BANGALORE.
20 OCT 1930
Regd. No. 10711
Dis No.
30/10/30

Simla, the 1st October 1930.

CIRCULAR.

Indian Income-tax Act (XI-22)—Section 28—Penalty—Section 34—Assessment under—Legality of imposition in course of.

The question has been raised whether a penalty under Section 28 can be levied when in the course of proceedings under Section 34, it is found that the return of income under Section 22 (2) filed at the time of the original assessment was incorrect or incomplete, the original assessment having been made on the presumption that such a return was not vitiated by any defect that would render the person making it liable to a penalty under Section 28. The answer is that the penalty under Section 28 is leviable in the course of any proceedings under the Act, provided that the facts justifying the imposition of a penalty under that Section are established. There is nothing in either Section 28 or Section 34 to preclude the imposition of a penalty in the course of proceedings under Section 34 in respect of the original return under Section 22 (2), if the facts of the case justify the imposition of such a penalty.

S B Shah

15-X-30.

Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

M131CBR—14-10-30—1,160—GIPS

Please carry out corrections in the spare copies.

Circular No. 30 of 1930.
R. Dis. No. 699-I. T./30.

CENTRAL BOARD OF REVENUE.

Simla, the 1st October 1930.

CIRCULAR.

Indian Income-tax Act (XI-22)—Section 28—Penalty—Section 34—Assessment under—Legality of imposition in course of.

The question has been raised whether a penalty under Section 28 can be levied when in the course of proceedings under Section 34, it is found that the return of income under Section 22 (2) filed at the time of the original assessment was incorrect or incomplete, the original assessment having been made on the presumption that such a return was not vitiated by any defect that would render the person making it liable to a penalty under Section 28. The answer is that the penalty under Section 28 is leviable in the course of any proceedings under the Act, provided that the facts justifying the imposition of a penalty under that Section are established. There is nothing in either Section 28 or Section 34 to preclude the imposition of a penalty in the course of proceedings under Section 34 in respect of the original return under Section 22 (2), if the facts of the case justify the imposition of such a penalty.

(Sd.) S. P. SHAH,
Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

M131CBR—14-10-30—1,160—GIPS

Circular No. 30 of 1930.
R. Dis. No. 699-I. T./30.

CENTRAL BOARD OF REVENUE.

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(Sd.) S. P. SHAH,
Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

M131CBR—14-10-30—1,160—GIPS

Circular No. 30 of 1930.
R. Dis. No. 699-I. T./30.

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(Sd.) S. P. SHAH,
Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

M131CBR—14-10-30—1,160—GIPS

(Conference of Commissioners of Income-tax—Madras—1930—September—Agenda—Item 11.)

Circular No. 29 of 1930.
R. Dis. No. 635-I.T./30.

CENTRAL BOARD OF REVENUE.

OFFICE OF THE RESIDENT IN MYSORE, BANGALORE.
20 OCT 1930
Regd. No. 1.0.712
File. No.
30/10 SD

Simla, the 1st October 1930.

CIRCULAR.

Jains—Assessment of—Hindu undivided family or otherwise.

Jain and Sikh Undivided Families should be treated, for the purposes of the Indian Income-tax Act, as Hindu Undivided Families, unless in any particular case the assessees claim that they should not be treated as a Hindu Undivided Family. Where such a claim is put forward, it is for the assessee to prove the existence of some special custom or practice applicable to the family in question which would justify its not being treated as a Hindu Undivided Family.

S. P. Shah

14. 10. 30.

Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

M130CBR—1,160—13-10-30—GIPS

6

(Conference of Commissioners of Income-tax—Madras—1930—September—Agenda—Item 11.)

Circular No. 29 of 1930.
R. Dis. No. 635-I.T./30.

CENTRAL BOARD OF REVENUE.

Simla, the 1st October 1930.

CIRCULAR.

Jains—Assessment of—Hindu undivided family or otherwise.

Jain and Sikh Undivided Families should be treated, for the purposes of the Indian Income-tax Act, as Hindu Undivided Families, unless in any particular case the assessees claim that they should not be treated as a Hindu Undivided Family. Where such a claim is put forward, it is for the assessee to prove the existence of some special custom or practice applicable to the family in question which would justify its not being treated as a Hindu Undivided Family.

(Sd.) S. P. SHAH,
Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

M130CBR—1,160—12-10-30—GIPS

(Conference of Commissioners of Income-tax—Madras—1930—September—Agenda—Item 11.)

Circular No. 29 of 1930.
R. Dis. No. 635-I.T./30.

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Simla, the 1st October 1930.

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(Sd.) S. P. SHAH,
Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

M130CBR—1,160—13-10-30—GIPS

(Conference of Commissioners of Income-tax—1930—September—Agenda—Item 14.)

CIRCULAR No. 33 OF 1930.
R. DIS. No. 638-I.T./30.

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
20 OCT 1930
Regd. No. 10713
File No. .....

CENTRAL BOARD OF REVENUE.

Simla, the 7th October 1930.

CIRCULAR.

Commission paid in United Kingdom—Liability to tax—Recovery of tax.

The Government of India consider that there is no doubt that commission paid in the United Kingdom to an employee for work done in India by way of an addition to the salary paid to him by his employer in British India must be held to accrue or arise in British India and therefore to be liable to Indian Income-tax.

2. It can only be actually taxed, however, by assessment in the year after that in which it is paid and consequently if it is paid to an employee who does not return to India at any time when tax can still be levied on it, there is no means of recovering tax on it. The question whether the Act should be amended so as to provide machinery for recovering tax in such cases will be noted for consideration when a suitable opportunity arises.

S. P. Shah
15. X. 30.
Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

M135CBR—1,160—14-10-30—GIPS

6

(Conference of Commissioners of Income-tax—1930—September—Agenda—Item 14.)

CIRCULAR No. 33 OF 1930.
R. DIS. No. 638-I.T./30.

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S. P. SHAH,

Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

M135CBR—1,160—14-10-30—GIPS

(Conference of Commissioners of Income-tax—1930—September—Agenda—Item 14.)

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S. P. SHAH,
Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

M135CBR—1,160—14-10-30—GIPS

D. O. R. Dis. No. 729-I. T./30.

CENTRAL BOARD OF REVENUE.

Camp Bombay, the 29th September 1930.

Indian Income-tax Act, XI of 1922—Section 66 (2)—Proviso to—Refund of Fees—When to be withheld.

MY DEAR SUNDARAM,

Your d.-o. No. A-298/1, dated the 23rd September 1930.

The Act says that the assessee may require the Commissioner to refer any question of law arising out of an order or decision under S. 31, etc., and that if in the exercise of his power of revision, the Commissioner decides the question, the assessee may withdraw his application.

2. Therefore—

(1) the assessee can withdraw his application if the Commissioner decides the question (or questions) whether the decision be favourable or unfavourable to the assessee.

(2) If the Commissioner of Income-tax holds that there is no question of law, he can't be said to have decided any question of law and the fee cannot be refunded. A decision on questions of fact, whether favourable or unfavourable to the assessee, cannot give the assessee a right to refund.

(3) If the Commissioner decides that the question raised by the assessee does not arise but that some other question of law does, and decides the latter, whether in the assessee's favour or not, the assessee is not entitled to a refund because the Commissioner has not decided the question raised by the assessee.

(4) The fact that an assessee withdraws his application 6 months after the date of the Commissioner's order on such application does not appear to me to have any bearing on the assessee's claim to a refund.

3. It does not follow that because an assessee is not entitled to a refund, the Commissioner should not consent to his withdrawing an application if he wishes to do so. Usually, he would naturally consent to withdrawal, making it clear, if such be the case, that there is no claim to refund.

Yours sincerely,

(Sd.) A. TOTTENHAM.

To

V. S. Sundaram, Esquire, Commissioner of Income-tax,
Bihar and Orissa, Hinoo, P. O. (Ranchi).

OFFICE OF THE RESIDENT IN MYSORE
BANGALORE
20 OCT 1930
Regd. No. 10714
File No.

CIRCULAR No. 31 OF 1930.

ENDST. R. DIS. No. 729 (*i*)-I. T./30.

Simla, the 6th October 1930.

Copy forwarded to all Commissioners of Income-tax (except Bihar and Orissa) for information.

By order, etc.,

15-11-30

for *Secretary, Central Board of Revenue.*

M132CBR—1,160—14-10-30—GIPS

D. O. R. Dis. No. 729-I. T./30.

CENTRAL BOARD OF REVENUE.

Camp Bombay, the 29th September 1930.

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Yours sincerely,

(Sd.) A. TOTTENHAM.

To

V. S. Sundaram, Esquire, Commissioner of Income-tax,
Bihar and Orissa, Hinoo, P. O. (Ranchi).

CIRCULAR No. 31 OF 1930.

ENDST. R. DIS. No. 729 (*i*)-I. T./30.

Simla, the 6th October 1930.

Copy forwarded to all Commissioners of Income-tax (except Bihar and Orissa) for information.

By order, etc.,

(Sd.) RAM NATH,

for *Secretary, Central Board of Revenue.*

M132CBR—1,160—14-10-30—GIPS

CENTRAL BOARD OF REVENUE.

NOTIFICATION.

INCOME-TAX.

Simla, the 18th October 1930.

No. 52.—The following draft of certain further amendments to the Indian Income-tax Rules, 1922, which the Central Board of Revenue proposes to make in exercise of the powers conferred by sub-section (1) of section 59 of the Indian Income-tax Act, 1922 (XI of 1922), is published as required by sub-section (4) of the said section for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration on or after the 29th November 1930. Any objection or suggestion which may be received in respect of the draft before the date specified will be considered by the said Board.

Draft amendment.

In the statement in rule 8 of the said Rules under the head "*7-Ships*" for sub-entry (*g*), the following sub-entries shall be substituted, namely :—

"(*g*) Motor launches ..	.. 10
(*h*) Speed boats ..	.. 15"

Explanation. "Speed Boat" means a motor-driven boat with a high speed internal combustion engine capable of propelling the boat at a speed exceeding 15 miles per hour in still water, and so designed that when running at speed it will plane—*i.e.*, its bow will rise from the water.

S. P. SHAH,
Secy., Central Board of Revenue.

52|C. No. 409-I.T.|29.

Copy forwarded to all Commissioners of Income-tax and Chambers of Commerce.

By order, etc.,

for *Secy., Central Board of Revenue.*

OFFICE OF THE RESIDENT IN MYSORE, BANGALORE.
28 OCT 1930
Regd. No. 10,989
File No.

H141CBR—335—23-10-30—GIPS

No. 8468. Enc 24.

220/1929

Dated 7th November 1930.

Pu.C.I S.N. 19.

From the Central Board of Revenue,

No.D.Dis.No.648-I.T/30, dated 24-9-30.

" II " 20. " " "

Cir.No.32 of 1930 , dated 7-10-30.
R.Dis.No.637-I.T./30.

" III " 21. " " "

Cir.No.30 of 1930 , dated 1-10-30.
R.Dis.No.699-I.T/30.

" IV " 22. " " "

Cir.No.29 of 1930. , dated 1-10-30.
R.Dis.No.635-I.T./30.

" V " 23. " " "

Cir.No.33 of 1930. , dated 7-10-30.
R.Dis.No.638-I.T/30.

" VI " 24 " " "

Cir.No.31 of 1930.Endt.R.Dis.No.729(i)-I.T./30., dated 6-10-30. I.

" VII " 25. " " "

Endt.No.52/C.No.409-I.T./29, dated the 24th Oct'30, on Notification No.52., dated the 18th Oct'30.

(With 3 spare Copies of each) except Pu.C.I)

A copy of the marginally noted papers is forwarded to the Assistant Commissioner of Incometax, Civil & Military Station, Bangalore, for information and guidance.

for Secretary to the Resdt, Commissioner of Incometax.

E.J. Samuvaram.
30-10-30.

To file
6/11/30.

Endt
to
6/11/30

27.

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
6 DEC 1930
Regd. No. 12429
File No. 2207/29

Circular No. 37 of 1930/R. Dis. No. 930-I. T./29.

CENTRAL BOARD OF REVENUE.

New Delhi, the 21st November 1930.

CIRCULAR.

Exemption from Income-tax—Bonus or commission paid to employees on leave in the United Kingdom or a Colony—Conference of Commissioners of Income-tax, 1929—Agenda—Item 12.

There has been considerable discussion in regard to the applicability to commission or bonus of the exemption conferred by Notifications under section 60 (Income-tax Manual Instructions—paragraph 7, items 21 to 23) on "leave salaries or leave allowances" paid in the United Kingdom or a colony to a private employee on leave in the United Kingdom or a colony.

2. The Board has now decided that the Notification may reasonably be interpreted as follows: Where the whole or any part of an annual bonus or commission due to an employee, whether under contract or otherwise, is paid in the United Kingdom or a colony to that employee while on leave in the United Kingdom or such colony, an amount not exceeding 1/12th of the annual payment for every month spent on leave in the United Kingdom, or such colony should be regarded as "leave salary, or leave allowance", *e.g.*, if the whole annual commission is paid on leave and is Rs. 12,000, and the leave lasts 7 months, Rs. 7,000 will be exempt. CJ. (addendum below)

3. If any employer chooses to pay an employee an excessive sum as commission or bonus in a year in which he is on leave, in order to give the employee the advantage of the exemption, the Income-tax Officer will refuse to allow the employer himself to treat the payment as a working expense under section 10(2) (*viiia*) of the Indian Income-tax Act.

Thus tax will be levied once on such excessive payments, and it is not desired, of course, to tax them more than once.

4. The Board considers that employers are not likely in the circumstances, either to desire or to be able to abuse the concession, as some Commissioners apprehend, to the detriment of the revenue. If such abuses are detected, they should be reported to the Board, and the position may have to be reconsidered.

5. It is of course part of the ordinary duty of the Income-tax Officer, considering an employer's claim to charge commission or a bonus as working expenses, to see that the provisions of section 10 (2) (*viiia*) are satisfied. The present instructions do not in any way modify or increase his responsibility in that respect.

S.D. Chari 1.XII.30.

Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

GIPD—583 C. B. R.—29-11-30—1,100.

Addendum [Commission Calculated with reference to the profits of the previous year of the employer and commission which bears a direct relation to actual working days cannot, however, be treated as leave salary or leave allowances and any payment thereof in the U.K. or a Colony during the time an employer is on leave there is not to be exempted] -SV.4 CJ 24/12.

Please carry out correction in the spare c opies. Corrected

Circular No. 37 of 1930/R. Dis. No. 930-I. T./29.

CENTRAL BOARD OF REVENUE.

New Delhi, the 21st November 1930.

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(Sd.) S. P. SHAH,
Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

GIPD—583 C. B. R.—29-11-30—1,100.

CENTRAL BOARD OF REVENUE.

NOTIFICATION.

INCOME-TAX.

New Delhi, the 6th December 1930.

No. 59.—In exercise of the powers conferred by Section 59 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Board of Revenue directs that the following further amendment shall be made in the Indian Income-tax Rules, 1922, the same having been previously published as required by sub-section (4) of the said section, namely:—

In the statement in rule 8 of the said Rules under the head "*7-Ships*" for sub-entry (*g*), the following sub-entries shall be substituted, namely:—

"(*g*) Motor launches	..	10
(*h*) Speed boats	..	15"

Explanation.—"Speed Boat" means a motor-driven boat with a high speed internal combustion engine capable of propelling the boat at a speed exceeding 15 miles per hour in still water, and so designed that when running at speed it will plane—*i.e.*, its bow will rise from the water.

S. P. SHAH,
Secy., Central Board of Revenue.

No. 59.—R. Dis. No. 409-(i)-I.T./29.

Copy forwarded to all Commissioners of Income-tax and Chambers of Commerce.

By order, etc.,

11. 12. 30

for *Secy., Central Board of Revenue.*

OF THE
BANGA
Regd. No. 12,732
File No.

G1PD—602CBR—9-12-30—305

29

DEPARTMENT. File No.

BRANCH. Serial No.

Draft Letter / Memorandum / Telegram

Class for telegrams: Ordinary / Express / Urgent* / Priority / Clear Line† — *Only for Foreign Telegrams. †Not for Foreign Telegrams.

To be issued on | Issued on

1st Reminder

2nd Reminder

3rd Reminder

Heading :

Case or Diary No.

If post copy of telegram required

Date of despatch of above

List of enclosures 12

(Code word for telegrams.)

End to P.U.C I.

Circular

End to P.U.C. I. Notification

No. 9908 Dated 2'nd Jan 931

To

Six copies each of the under-mentioned papers are forwarded to the Assistant Commissioner of Income tax, Civil and Military Station, Bangalore, for information + guidance

From the Central Board of Revenue,

No.37 of 1930/R.Dis.No.930-I.T./29.,

dated the 21st November'30.

From the Central Board of Revenue,

No.59-~~R.Dis.No.409-(1)-I.T./29.~~,

dated the 6th December'30.

23/12

for Secretary to the Resident

&

Commissioner of Incometax.

S. 5.

MG1PC—S1—1331(G1)Def—(G-502)—17-8-28—40,000-Pads.

17-12-30

C. No. 21-I. T./31.

CENTRAL BOARD OF REVENUE.

New Delhi, the 17th January 1931.

FROM

S. P. SHAH, ESQ., I.C.S.,
Secretary, Central Board of Revenue,

To

MESSRS. TIKAMDAS DHALUMAL BROTHERS,
Grain Merchants, Tatta (Karachi District).

(Through the Commissioner of Income-tax, Bombay.)

Examiners' notes on accounts—Copies of —Assessees' right to obtain.
Your letter dated 30th December 1930.

Gentlemen,

In reply to your letter quoted above, I am directed to say that the Board does not propose to fetter the discretion of the Commissioners of Income-tax in regard to such matters.

2. If the Income-tax Officer's assessment order is complete it should indicate all the materials on which the assessment is based, and consequently all the materials required to enable the assessee to file an appeal should he wish to do so. The responsibility for the assessment is the Income-tax Officer's and his alone, and no room should be left for supposing that he shares it with the Examiner.

3. If an Income-tax Officer should refer in an assessment order to an Examiner's note, the assessee would be entitled to a copy of the note in question, or of the relevant part of it. The Board has frequently observed, however, for the reasons stated in paragraph 2 of this letter, that Income-tax Officers should not refer to Examiners' notes in their orders, which should be self-contained.

I have the honour to be,

Gentlemen,

Your most obedient servant,

(Sd.) S. P. SHAH,
Secretary, Central Board of Revenue.

Dated 17th January 1931.

Copy forwarded to the Commissioner of Income-tax, Bombay, with reference to his letter No. Adm. 356/30.

Copy forwarded to the Commissioner of Income-tax, Punjab, with reference to his No. 130-3/31.

(Sd.) RAM NATH,

for *Secretary, Central Board of Revenue.*

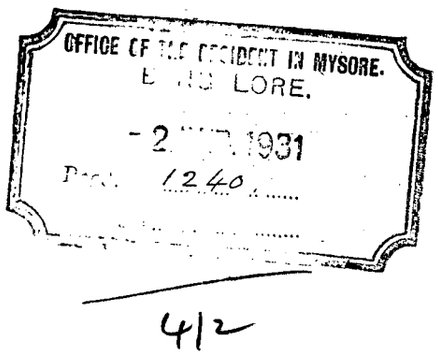
Dated 17th January 1931.

Circular No. 2 of 1931/R. Dis. 21-I. T./31.

Copy forwarded to other Commissioners of Income-tax.

Ram Nath
28.1.31.

for *Secretary, Central Board of Revenue.*



4/2

GIPD—815 OBR—26-1-31—1,150.

31

[R.O. 106 (a).]

All communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

OFFICE OF THE RESIDENT IN MYSORE,

Bangalore, 13th Feb 1931.

No. 1082 Enclos. 1

A copy of the marginally* noted paper ~~letter, with enclosure~~, is forwarded to the Asst Commissioner of Income-tax, C & M Station, Bangalore, for information.

File
S.N. 80

Cir.*No.2 of 1931/R.Dis 21-I.T/31, dated the 28th Jany, 1931 from the Central Board of Revenue.

for Secretary to the Resident.

1212—16-3-1929—5,000—EPB.

Exd 5/18 12/2

ICTW 6.2.31

Circular No. 4 of 1931.
R.Dis.No.81-I.T./31.

CENTRAL BOARD OF REVENUE.

New delhi, the 10th March 1931.

C I R C U L A R.

Gratuities - Army Instruction India.No.101, dated 9th September 1930 - Liability to tax.

Under paragraph 6 of the Army Instruction quoted above officers who take advantage of the concession will be entitled to an additional pension or at their option to a gratuity in lieu of the additional pension. The gratuity in lieu of additional pension will clearly represent a capital sum received in commutation of a portion of a pension within the meaning of clause (v) of sub-section (3) of section 4 of the Indian Income-tax Act and will accordingly be exempt from Income-tax.

S.Mah
14. 3. 31.
Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

Copy forwarded to the Army Department for information.

OFFICE OF THE ACCOUNTANT GENERAL MADRAS.
18 MAR 1931
Regd. No. 2864
File No. 22105

DRS.
12/3.

Circular No. 4 of 1931.
R.Dis.No.81-I.T./31.

CENTRAL BOARD OF REVENUE.

New delhi, the 10th March 1931.

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Sd. S. P. Shah,

Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

Copy forwarded to the Army Department for information.

ERS.
12/3.

Circular No. 4 of 1931.
R.Dis.No.81-I.T./31.

CENTRAL BOARD OF REVENUE.

New delhi, the 10th March 1931.

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Sd. S. F. Shah,

Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

Copy forwarded to the Army Department for information.

ERS.
12/3.

Circular No. 3 of 1931.

R.Dis. No. 791-I.T./30.

CENTRAL BOARD OF REVENUE.

New Delhi, the 7th March 1931.

C I R C U L A R.

Allowances - Batta and travelling allowances - Official witnesses summoned by Income-tax Officers - Payments to - Practice regarding -. Board's Circular No. 43 of 1928 D. Dis. No. 544-I.T./28, dated the 8th November 1928.

In the Board's circular quoted above instructions were issued that batta and travelling allowance should be paid to all witnesses summoned by Officers of the Income-tax department on the scale laid down for civil courts and the cost met from the contingent grant of the officer concerned. Enquiries show that in cases in which official witnesses are summoned by an Income-tax Officer, of his own motion or at the instance of an assessee, to appear before him in income-tax cases, the payment of diet money and travelling expenses has not been made on uniform principles. The Board therefore directs that in future the provisions of Supplementary Rule 154 should apply to all such cases. The Board at the same time desires that Commissioners of Income-tax should impress on their officers the importance of not enforcing the personal attendance of official witnesses unless it is absolutely indispensable.

S. P. Shah
13. 3. 31.

Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

OFFICE OF THE RESIDENT IN MYSORE.
SECRE.
18 MAR 1931
D. No. 2,865
File No. 220/29

Circular No. 3 of 1931.

R.Dis. No. 791-I.T./30.

CENTRAL BOARD OF REVENUE.

New Delhi, the 7th March 1931.

C I R C U L A R.

Allowances - Batta and travelling allowances - Official witnesses summoned by Income-tax Officers - Payments to - Practice regarding -. Board's Circular No. 43 of 1928 D. Dis. No. 544-I.T./28, dated the 8th November 1928.

In the Board's circular quoted above instructions were issued that batta and travelling allowance should be paid to all witnesses summoned by Officers of the Income-tax department on the scale laid down for civil courts and the cost met from the contingent grant of the officer concerned. Enquiries show that in cases in which official witnesses are summoned by an Income-tax Officer, of his own motion or at the instance of an assessee, to appear before him in income-tax cases, the payment of diet money and travelling expenses has not been made on uniform principles. The Board therefore directs that in future the provisions of Supplementary Rule 154 should apply to all such cases. The Board at the same time desires that Commissioners of Income-tax should impress on their officers the importance of not enforcing the personal attendance of official witnesses unless it is absolutely indispensable.

S. P. SHAH,

Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

Circular No. 3 of 1931.

R.Dis. No. 791-I.T./30.

CENTRAL BOARD OF REVENUE.

New Delhi, the 7th March 1931.

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S. P. SHAH,
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S. P. SHAH,
Secretary, Central Board of Revenue.

To
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S. P. SHAH,

Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

34

[R.O. 196 (a).]

All communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

OFFICE OF THE RESIDENT IN MYSORE,

Bangalore, 27th March 1931.

No. 2234 Enclos. 2

(in duplicate)

Pure I

S. N. 32

A copy of the marginally* noted papers is forwarded to the Asst Commissioner of Income-tax, C & M Station, Bangalore for information and guidance.

Cir. *No4 of 1931, dated the 10th March, 1931.
R.Dis.No.81-I.T/31

Cir.No.3 of 1931, dated the 7th March 1931.
R.Dis.No.791-I.T/30

from the

S. N. 33

Pure II

Central Board of Revenue.

24/3

for Secretary to the Resident.

1212—16-3-1929—5,000—RPB.

Encd 24/3/31

ICSW 20.3.31

D.No.203-I.T./31.

CENTRAL BOARD OF REVENUE.

New Delhi, the 23rd March 1931.

From

S. P. Shah, Esquire, I.C.S.,

Secretary, Central Board of Revenue,

To

The Secretary to the Resident and Commissioner of Income-tax,

Civil and Military Station, Bangalore.

Sir,

Finance Bill - 1931 - Income-tax Manual - paragraph 61 - Exemption certificates - Cancellation of.

I am directed to state that under the Finance Bill, 1931, which is now before the Legislative Assembly, the maximum rate of income-tax is being raised to 26 pies per rupee while the other rates have also been increased. If the income-tax rates are revised, it will be necessary for the Income-tax Officers to cancel the exemption certificates granted under the instructions contained in paragraph 61 of the Income-tax Manual, because the rates specified in them will be wrong. I am accordingly directed to request that Income-tax Officers may be instructed to cancel all the existing exemption certificates if the rates of income-tax are revised for 1931-32 with the exception of such certificates that relate to persons of less than Rs.2,000 or to incomes that are altogether exempt.

I have the honour to be,

Sir,

Your most obedient servant,

24-3-31

Secretary, Central Board of Revenue.

31

Regd. 3/50

Final

31.3.20/3/0

Circular No. 6 of 1931.
C. No. 941-I.T./27.

CENTRAL BOARD OF REVENUE.

New Delhi, the 27th March 1931.

C I R C U L A R.

Indian Income-tax Act, XI of 1922- Amendment of- Residence basis- Adoption proposed.

Board's C. No. 941-I.T./27, dated 16-3-1931.
C.I.T., Madras, C. No. 157/31, dated 19-3-31.
C.I.T., Bombay, No. R.B. 192/28, dated 20-3-31.
C.I.T., Bengal, No. 16 948/24/10 CT, dated 21-3-1931.
C.I.T., U.P., letter dated 24-3-1931.
C.I.T., Punjab, No. C/23/31, dated 18-3-1931.

It now seems extremely improbable, to say the least, that the bill changing the basis of liability to Income-tax can come into force during the financial year 1931-32.

2. Notices under section 22 (2) in the existing form should therefore be issued as promptly as possible as usual. Even if the Bill did become law it does not appear that it would be essential to make any change in the Form of Return. Some changes could be needed in the instructions and the revised instructions then ready could be issued only in those cases in which it was considered necessary to do so.

27-3-31.
Secretary, Central Board of Revenue

To

All Commissioners of Income-tax.

30
3,313

H.S.H. 27/3.

37

[R.O. 106 (a).]

All communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

OFFICE OF THE RESIDENT IN MYSORE,

Bangalore, 10th April 1931.

No. 2886 Enclos. 2

Pue I
S. N. 35

A copy of the marginally* noted papers is forwarded

(1). C. *No. 204-I.T/31, dated the 23rd March, 1931,
(2). Cir No. 5 of 1931, dated the 27th March, 1931.
C.No. 941-I.T/27

S. N. 36
Pue II

from the Central Board of Revenue.

to the Asst Commissioner of Income-tax, C & M Station, Bangalore, for information and necessary action.

7/4/31

for Secretary to the Resident.

Ext. 9/4/31

1212—16-3-1929—5,000—RPB.

7/4/31

Copy 4.4.31

Letter No. 438/30, dated the 20th April, 1931, from the Commissioner of Income-tax, Madras, to the Treasurer, American Madura Mission, Madura.

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Refund - Incometax - Tax deducted at source and paid to the Incometax Officers, South Circle, Madura - Miss M.M.Root and Rev. D.S.Herrick - Missionaries American Madura Mission - At Civil and Military Station, Bangalore - Your letter dated 9th March, 1931.

I am instructing the Income tax Officer, Madura, to treat these amounts as having been received on behalf of the Income tax Officer, Civil and Military Station, Bangalore. Credit will be given to Miss Root and the Rev. D.S.Herrick for these amounts in the assessments that may be made by the Incometax Officer, Civil and Military Station, Bangalore, on the two individuals for the year 1931-32.

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* * *

Copy to the Income-tax Officer, Civil & Military Station, Bangalore, through the Commissioner of Income-tax, Bangalore.

* * *

O/C

Reg. No. 4103
21-4-1931.

BJ

[R.O. 106 (a).]

All communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

OFFICE OF THE RESIDENT IN MYSORE,

Bangalore, 8th May 1931.

No. 3350 Enclos.
220-1929.

~~A copy of~~ The marginally* noted letter, ~~with enclosures~~ is forwarded to the Income-tax Officer, Civil & Military Station, Bangalore, (through the Assistant Commissioner of Income-tax, Civil & Military Station, Bangalore) for information and guidance.

Letter* No. 438/30,
dated the 20th April, 1931,
from the Commissioner of Income-tax, Madras.

for Secretary to the Resident.

1212—16-3-1929—5,000—RPB.
BJ